



Natural Resources Conservation Service
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“Transmitted via email”

November 15, 2004

MINNESOTA BULLETIN NO. 300-5-10

SUBJECT: LTP – HOW THE WETLAND CONSERVATION PROVISIONS OF THE FOOD SECURITY ACT (FSA) APPLY ON EXPIRED CONSERVATION RESERVE PROGRAM (CRP) LANDS.

Purpose. To provide guidance on applying the Wetland Conservation provisions of the Food Security Act (FSA) of 1985 to lands that are no longer in the CRP and are being returned to agricultural commodity production.

Expiration Date. September 30, 2005

Background. As CRP contracts expire, landowners may want to return land previously in CRP to active agricultural use. The FSA states that if land that was subject to such a contract is returned to production of an agricultural commodity, the Highly Erodible Land Conservation and Wetland Conservation requirements shall apply to the use of the land. This bulletin discusses how those conservation provisions apply to land that has reverted to wetlands as a result of the conservation plan implemented under CRP.

Explanation. For land to be eligible for enrollment in CRP, it must have been annually planted or considered planted to an agricultural commodity for 4 of the 6 crop years from 1996 to 2001, or, prior to 2002, for 2 of the 5 years preceding enrollment (or 3 of the 10 most recent crop years for land enrolled in the Farmable Wetlands Program). It must also be physically and legally capable of being planted in a normal manner to an agricultural commodity. Based on this cropping history and site conditions, any land enrolled in CRP that reverted to wetlands as a result of the conservation plan, would generally qualify as prior converted cropland or farmed wetland. If the Natural Resources Conservation Service (NRCS) made a “certified wetland determination” that the land is prior converted cropland (PC) or farmed wetland (FW) and wetland characteristics returned subsequent to that determination as a result of lack of maintenance of drainage features or a voluntary restoration, enhancement or creation action, then conversion of the wetland back to its earlier prior converted cropland (PC) or farmed wetland (FW) condition is exempt from the wetland conservation requirements.

For land with a “certified wetland determination” of “FW” (farmed wetland), the baseline site conditions and the restoration, enhancement or creation actions must have been documented by NRCS. The proposed conversion actions to return the site to its previous, cropped condition must also be documented by NRCS prior to their implementation. Furthermore, the extent of the proposed conversion must be limited so that the conditions will be at least equivalent to the wetland functions and values that existed at the time of the implementation of the voluntary wetland restoration, enhancement, or creation action.

If NRCS did not make a certified wetland determination prior to the land entering CRP, it is the responsibility of the landowner to provide sufficient documentation and information to allow NRCS to determine the site conditions and status of the land on December 23, 1985, when the FSA was implemented, in accordance with the regulation at 7 CFR 12.33(a).

Based on this information, landowners need to be advised to initiate a wetland drainage/manipulation request via form AD-1026. Where “certified wetland determinations” do not exist, landowners will also need to sign the NRCS-CPA-038 to ensure that the work complies with the wetland conservation requirements.

Questions on the information in this bulletin can be directed to your Area Resource Conservationist.

/s/ Tim Koehler, Acting for

WILLIAM HUNT
State Conservationist

DIST: AC
FO
Tim Koehler, ASTC (P)